

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

STANLEY BENTON JACKSON,

Plaintiff,

vs.

**DEPARTMENT OF THE ARMY; JAY
F. JOHNSON, Director of Emergency
Services of the Anniston Army Depot;
MARK EPPS, Supervisor of Building
102 at the Anniston Army Depot,**

Defendants.

CASE NO. 1:14-CV-1315-SLB

MEMORANDUM OPINION

This case is presently before the court on the Magistrate Judge's Report and Recommendation, (doc. 4), and plaintiff Stanley Benton Jackson's Objections to Magistrate's Report and Decision, (docs. 5, 7).

The Report and Recommendation recommended that plaintiff's request to proceed *in forma pauperis* be denied and that his Complaint be dismissed because his claims against the defendants were frivolous. (Doc. 4 at 4-6.) In response, plaintiff asserts that his claims are not frivolous based on his allegations of race discrimination and evidence that defendant Jay F. Johnson "grossly violated" Army regulations. (Doc. 5 at 1-2; doc. 7.) However, he does not address the Magistrate Judge's report that the finding of frivolousness was based on the facts that plaintiff had sued federal government parties under § 1983, which only provides a remedy for unlawful actions taken under color of *state* law, nor does he address the Magistrate Judge's report that his Complaint is frivolous because it seeks relief that only his former employer, who is not named in his Complaint, can provide.

The district court reviews *de novo* those parts of the Report and Recommendation to which a party objects. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3) ("The district

judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."). The court may review the other parts of the Report and Recommendation for plain error or manifest injustice. *United States v. Slay*, 714 F.2d 1093, 1095 (11th Cir. 1983)(citing *Nettles v. Wainwright*, 677 F.2d 404, 410 (11th Cir. 1982)). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The court has reviewed the entire record before the Magistrate Judge as well as the Report and Recommendation and plaintiff's Objections.

Based on its careful considered, the court **ADOPTS** the Report of the Magistrate Judge and **ACCEPTS** his Recommendations. Contemporaneous with the entry of this Memorandum Opinion, the court will enter an Order denying plaintiff's Motion for Leave to Proceed In Forma Pauperis and dismissing his Complaint as frivolous.

DONE this 5th day of November, 2014.



SHARON LOVELACE BLACKBURN
UNITED STATES DISTRICT JUDGE